REMARKS

Favorable reconsideration of this application, in light of the following remarks, is respectfully requested.

Claims 1-19 are currently pending in this application, of which claims 1 and 17 are independent and the remainder dependent. Claim 20 was previously cancelled.

DOUBLE PATENTING REJECTION

Claims 1-6, 8-11, 13, and 16-18 are *provisionally* rejected on the grounds of nonstatutory obviousness-type double patenting as being unpatentable over claims 21-26, 29, 32-33, and 36-40 of copending Application No. 10/577,158.

Applicants acknowledge this *provisional* rejection, and will take the appropriate steps to address this rejection once the claims in this application and the claims in pending Application 10/577,158 are indicated as including allowable subject matter since this *provisional* rejection is based on claims that may change.

REJECTIONS UNDER 35 U.S.C. § 103

- Minemura in view of Aaltonen

Claims 1-11 and 13-20 are rejected under 35 U.S.C. § 103(a) as being unpatentable over U.S. Patent Publication No. 2003/0114144 ("Minemura") in view of U.S. Patent Publication No. 2005/0097053 ("Aaltonen").

It is alleged in the Office Action at pages 4-5 that the combination of Minemura and Aaltonen renders the limitation of claim 1 obvious to one of ordinary skills in the art. Particularly, the Examiner admits that Minemura fails to disclose or fairly suggest "the cryptogram including a digest of the application, the identification data, instructions intended for the security module and at least one of an identifier of the application and an identifier of security module resources," as

recited in independent claim 1 and relies on the teachings of Aaltonen to cure the noted deficiencies of Minemura.

The Examiner admits that Minemura fails to disclose or fairly suggest "the identification data," "at least one of an identifier of the application" and "an identifier of security module resources," as recited in independent claim 1. But, the Examiner alleges that Aaltonen teaches a network entity desiring to receive content sending "identification data" including IMSI and IMEI to a file manager. The file manager can communicate with the download manager 102 such that the download manager can electronically stamp the content with the IMSI or the IMEI that is provided by the network entity requesting the content. However, Aaltonen fails to disclose "an identifier of security module resources," as recited in independent claim 1. The Examiner alleges that Aaltonen discloses sending IMSI of the network entity requesting the content. However, the IMSI is not "an identifier of security module resources." As mentioned in the Office Action, IMSI identifies SIM modules and does not identify any "security module resources," as recited in independent claim 1.

For at least these reasons, Applicants submit that Aaltonen fails to overcome the noted deficiencies of Minemura.

Further, according to Para [0192] of Minemura, a server verifies whether the authentication of the terminal has succeeded on condition that authentication for the authentication module via the terminal succeeds. Thus the authentication module and the application are indirectly authenticated by the server.

During an application authentication, the terminal calculates a hash value of a downloaded application and presents a signature of the application to the authentication module which checks if the hash value obtained by decrypting the signature corresponds to the calculated hash value. The application is here not

installed in the terminal but stored in a download section 2804 of the terminal (Para. [0191] of Minemura).

The application is thus verified to detect eventual tampering by using a digest. However, the digest does not include any further instructions or resources that condition the functioning of the application according to predetermined criteria and verification result.

Furthermore, Minemura does not disclose application specific instructions acting on resources of the security module according to a result of the verification of the application identified by the cryptogram.

Aaltonen discloses a system and a method for protecting content. The system includes a terminal capable of receiving content and storing it in memory. The system also includes a first network entity capable of operating a download manager, and a second network entity capable of operating a file manager. One or both of the network entities can comprise the terminal itself. The terminal can be capable of operating at least one application for requesting the received content. The file manager of the second network entity can receive the request for the received content, and thereafter determining if the request comprises a request for use of the received content local to the terminal. The download manager of the first network entity can also stamp the content with an identifier of the terminal.

When the file manager provides the content to an application to transfer to another network entity, the file manager can receive an identifier (e.g., the IMEI code, IMSI code, MSISDN code, etc.) of the recipient, i.e., network entity, desiring to receive the content. In this regard, the file manager can communicate with the download manager such that the download manager can electronically stamp the content with the identifier of the receiving network entity.

Aaltonen focuses to content protection rather than application resources management. The identifiers such as IMSI and IMEI are used to personalize a content of a specific terminal to avoid unauthorized distribution of the content to other terminals.

The Examiner's position stating that the terminal controls an application once it has been sent is flawed since the terminal controls the use of a content to prevent its illegal use. The application for requesting a received content implemented in the terminal is not controlled by the content provider. The Examiner appears to be confusing two different operations, controlling access to a content and controlling by the provider the functioning of an application able to process a content, as the same

Again, Applicants submit that Aaltonen fails to overcome the noted deficiencies of Minemura.

Therefore, the alleged combination of Minemura and Aaltonen also fails to render the limitations of claim 1, and somewhat similar features recited in independent claim 17, obvious to one of ordinary skills in the art.

Applicants, therefore, respectfully request that the rejection to claims 1-11, 13-19 under 35 U.S.C. § 103 be withdrawn.

- Minemura and Aaltonen in view of Haverinen

Claim 12 is rejected under 35 U.S.C. § 103(a) as being unpatentable over Minemura and Aaltonen as applied to claim 11, and in further view of US 2002/0012433 ("Haverinen"). Applicants respectfully traverse this rejection for the reasons detailed below.

Claim 12 is dependent on independent claim 1, and claim 1 is shown to be patentable over Minemura and Aaltonen for the reasons given above. Further, Haverinen fails to overcome the noted deficiencies of Minemura and Aaltonen.

Therefore, the alleged combination of Minemura, Aaltonen and Haverinen also fails to render the limitations of claim 12 obvious to one of ordinary skills in the art.

For this reason, Applicants respectfully request that the rejections under 35 U.S.C. §103(a) of claim 12 be withdrawn.

CONCLUSION

In view of the above remarks and amendments, the Applicants respectfully submit that each of the pending rejections have been addressed and overcome, placing the present application in condition for allowance. A notice to that effect is respectfully requested.

Should there be any outstanding matters that need to be resolved in the present application, the Examiner is respectfully requested to contact Donald J. Daley at the telephone number of the undersigned below.

If necessary, the Commissioner is hereby authorized in this, concurrent, and future replies, to charge payment or credit any overpayment to Deposit Account No. 08-0750 for any additional fees required under 37 C.F.R. § 1.16 or under 37 C.F.R. § 1.17; particularly, extension of time fees.

Respectfully submitted,

HARNESS, DICKEY, & PIERCE, P.L.C.

By _____

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